

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

August 1, 2006 Minutes

Present: Raymond Arsenault, Kristen Rao, Gabriella Halmi, Jina Karempetsos, Arthur Russo, Jr., David Gobeille, Town Solicitor Mark Krieger

Excused: Nicholas Rampone

Minutes

Chairman Arsenault asked if there any corrections to the July 2006 Minutes. Member Rao stated that the Motion to grant for W.P. Realty/L.B. Lincoln Mall Holdings LLC should include the wording "...and are subject to separate relief by the Zoning Board..." Motion to accept the amended Minutes carried with a 5-0 vote.

Correspondence

BCO, Inc., 89 Central Street, Manville, RI – Special Use Permit to maintain existing 2-family dwelling, demolish the garage and construct 5 additional town house style units.

AP 35, Lot 10 Zoned: RG 7

Chairman Arsenault read into the record correspondence from John Shekarchi, attorney for applicant asking that his client's application be continued to the September 2006 because of a notice violation.

Motion made by Member Gobeille to continue the application to the September agenda. Motion seconded by Member Halmi. Motion carried with a 5-0 vote.

Applications

Michael Joinville, 100 Church Street, Manville, RI – Dimensional Variance for front yard setback to rebuild porches.

AP 37, Lot 177 Zoned: RG 7

Russell Hervieux, Zoning Official informed the Board that there was a notice violation for this application. A notice mailed to Olida Plante Michaud, Old River Road, Manville, RI was returned. Checking the field cards showed that the proper address was 430 Old River Road, Manville, RI thus notice was not proper. Attorney Krieger asked if she was present and no one responded. Attorney Krieger informed the Board that because improper notice was served the application should be continued to the September agenda.

Motion made by Member Halmi to continue the application to the September agenda. Motion seconded by Member Karempetsos. Motion carried with a 5-0 vote.

Walter J. and Joanne A. Matisewski, 16 Tricia Circle, Cranston, RI – Special Use Permit for a two sided 4'x6' professional sign to be located at 1011 Smithfield Avenue, Lincoln, RI.

AP 6, Lot 385 Zoned: RG 7

Russell Hervieux, Zoning Official informed the Board that there was a notice violation for this application. A notice mailed to Ronald & Pauline Girard, 61 Scott Road, Lincoln, RI was returned. Checking the field cards showed that the proper address was 61 Scott Road, Cumberland, RI thus notice was not proper. Attorney Krieger asked if they were present and no one responded. Attorney Krieger informed the Board that because improper notice was served the application should be continued to the September agenda.

Motion made by Member Karempetsos to continue the application to the September agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

**Albion Place LLC, 6 Blackstone Valley Place, Lincoln, RI – Comprehensive Permit Recommendation to establish six (6) new dwelling units, two (2) of which shall be countable as low or moderate income dwelling units, on property located on Main Street, Albion, RI.
AP 32, Lot 44 Zoned: BL 0.5**

Represented by: Peter D. Ruggiero, Esquire

Chairman Arsenault read into the record standard provisions which needed to be addressed for a Comprehensive Permit recommendation. The Zoning Board will review the proposed

Comprehensive Permit and offer their recommendation to the Planning Board.

Attorney Ruggiero addressed the Board stating applicant was before this Board prior to the zoning amendment regarding comprehensive permits and has two experts who will testify this evening. There are fifteen existing units at the site and applicant wants to add six units on the right side of the building, two of which will be low/moderate housing. A public hearing was continued subject to the Zoning Board rendering a recommendation to the Planning Board. The area is zoned BL 05 which does not permit multi-family development.

Witness:

Richard Lipsitz, PLS, Waterman Engineering Company

Designed the lot layout and is licensed in Rhode Island and Massachusetts.

Motion made by Member Rao to qualify Mr. Lipsitz as an expert professional surveyor. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Lot size is 40,000 sq.ft. and located on Main Street. Applicant has reconfigured parking and wants to add a wing on the northerly side. The Technical Review Committee asked that applicant install a guardrail and clean up asphalt at the entrance on the Kirkbrae side. They also need to obtain a connection permit from Narragansett Bay Commission (NBC) and plans have been submitted to the Fire Dept,

Water Dept, and Sewer Dept. They do not have the permits in hand but should receive them shortly. Proposal meets zoning requirements. Water Commission informed applicant that there is sufficient water service for the site. Design in the parking area shows that runoff will be kept out of the street and adjacent properties. Roof water will run into the ground. Technical Review Committee was concerned about the effect of traffic and road width – applicant will remove asphalt and landscape property at the street. Exterior of new addition will mimic existing building. Snow removal and parking issues will be addressed by the condominium association. There will be no change in exterior building lighting and parking lights.

Witness

George Caldow, AICP, Caldow Associates, Inc.

He is an expert in community planning/zoning and has appeared before this Board in the past. Motion made by Member Rao to accept Mr. Caldow as an expert witness. Motion seconded by Member Halmi. Motion carried with a 5-0 vote. Resume submitted as Exhibit #1.

He prepared an evaluation and report on this proposal which he provided to the Board. Witness read verbatim from his report regarding findings on this project.

It is his finding that the application before the Zoning Board will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or Comprehensive Plan.

The proposed addition will not impair the stated purposes of the Zoning Ordinance or alter the general character of the surrounding area.

Witness:

Robert Brown, Owner

Other than what currently exists at the site, there will be no future signage at the site.

In Favor:

Peter Dandurand, 2 Main Street, Albion, RI

He is a resident of the complex and is President of the condominium association. Mr. Dandurand has met with the owners and has addressed parking issues at the site. What applicant is proposing is better than what was previously submitted to the Board. Extra parking has been provided for the tenants – 2 spaces per unit and parking spaces will be numbered.

Opposed:

Sandra Mohammed, 34 Briarwood Road, Lincoln

There has been an ongoing problem with loud music late at night in the past but it has subsided since she brought it up at the last meeting.

Attorney Krieger addressed the Board stating the Zoning Official pointed out to him that the comprehensive permit if granted by the

Planning Board would not cover any variances for signage and applicant would need to seek a variance. He further stated the Chairman cited RIGL 45-53-4 regarding comprehensive permits for the record. Applicant came before this Board for a Use Variance and is now here for a Comprehensive Permit. Attorney Krieger read into the record RIGL 45-53-4 Section (v) (B) and (vii) outlining the required findings for a Comprehensive Permit.

Motion made by Member Halmi that the Zoning Board upon review of all the testimony and materials submitted by the applicant moves by vote to send a positive recommendation to the Planning Board regarding the Comprehensive Permit application. She further stated:

- The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and has satisfactorily addressed the issues where there may be inconsistencies.**
- The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations and where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.**
- The applicant has shown through the testimony of expert witnesses that issues which were previously presented have been addressed and resolved.**
- All low and moderate income housing units proposed are integrated**

throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

- There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.
- All proposed land developments and all subdivision lots will have adequate and permanent physical access to a public street in accordance with the requirements of Section 45-23-60(5).
- The proposed development will not result in the creation of individual lots with any physical constraints to develop that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved recorded plans.

Motion seconded by Member Karempetsos. Motion carried with a 5-0 vote with Members Arsenault, Rao, Halmi, Gobeille, and Karempetsos voting aye.

Richard and Joyce Marcotte, 8 Meadow Site, Lincoln, RI –

Dimensional Variance for side yard setback for the construction of an addition.

AP 45, Lot 130 Zoned: RA 40

Chairman Arsenault read into the record standards that needed to be met for a Dimensional Variance.

Applicant read into the record recommendation dated June 15, 2006 from DLR Dimensions, Inc., architect for applicant. Applicants considered going up with the addition but this was not cost effective; building to the rear of the house but there is a problem with sloping. House currently is less than 1,300sq.ft. and will be 2,200 sq.ft once the addition is complete. Left side of the house has existing bedrooms and kitchen is on the right hand side. There is a one car garage under the existing bedrooms. House sits on a corner lot. Her father built the house in the late 1950s. Existing garage will be converted into storage space. Applicants plan to install a new roof, new siding on the house and new windows will match existing house.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for a dimensional variance. The Board feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the

Zoning Ordinance. More specifically, the Planning Board feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land. The Planning Board feels that the applicant has sufficient room to expand to a second floor on the existing foot print of the house without having to request a variance to expand to the side. The Planning Board feels that the dimensional variance will alter the general character of the surrounding area and will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

Motion made by Member Karempetsos to grant a 34 foot west side setback stating:

- The hardship from which the applicant seeks is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Member Karempetsos amended her motion to include the removal of the asphalt driveway at the front of the home. Motion seconded by Member Rao. Motion to amend carried with a 5-0 vote.

Judith Hughes, 8 Lantern Brook Road, Lincoln, RI – Dimensional Variance for rear yard setback for the construction of an addition.

AP 26, Lot 269 Zoned: RA 40

Represented by: John Shekarchi, Esquire

Russell Hervieux, Zoning Official informed the Board that there was a notice violation for this application. A notice mailed to Carl J. Silvaggio, 33 Highland Street, Pawtucket, RI was returned. Checking the field cards showed that the address on the returned notice matched that on file in the Tax Assessor's office thus proper notice was served. Attorney Krieger concurred with Mr. Hervieux regarding notice.

Chairman Arsenault read into the record standards that need to be met for a Dimensional Variance.

Applicant is seeking a 10 foot rear yard setback for the construction of an addition on the referenced lot which was created by a subdivision in November of 1999. Applicant consulted with neighbors about placement of the proposed addition on the lot.

Location of the addition will not alter the general character of the area. Applicant submitted Exhibit #A Photo showing building envelope; Exhibit #B Copy of restrictions; Exhibit #C Petition signed by abutters in support of the application.

Witness

Barbara Thornton, Architect

She is an expert in the field of residential architecture. Motion made by Member Rao to accept Ms. Thornton as an expert witness. Motion seconded by Member Halmi. Motion carried with a 5-0 vote.

She designed the plans for applicant and is familiar with the neighborhood. Applicant has a modest home with 1,300 square feet and single garage.. She needs to create a larger living room so she can supervise her children while they play in the home which is long and narrow. House across the street is turned in the opposite direction. Electric company is located at the rear of the property. Typical lot configuration for this neighborhood is flat to the street with a deep back yard. There are three unique lots on the street because of the electric lines. Exterior and windows of new addition will match existing house. Addition will create an additional 326 sq.ft. to the home.

Witness

Edward Pimental, AICP

Mr. Pimental has testified before this Board in the past and is familiar with the Town ordinance and comprehensive plan. He examined the

neighborhood plans and prepared a report which he submitted as Exhibit #D. Hardship for applicant is due to the unique characteristic of the land. The building envelope is narrow and deep with a 4:1 ratio of width to depth. The present neighborhood proportion of housing mass of width to depth is approximately 1.39:1. The Technical Review Commission's recommendation to place the addition on the side would result in a ratio of 2.86:1 or three times longer than the depth. By placing the addition at the rear it would lower the ratio to 1.25:1 and make it more consistent with surrounding homes. The subject lot is the result of a subdivision. Addition will not alter the area but bring it into character. The least relief necessary is a 10 foot dimensional variance. Submitted copy of tax assessor records into evidence as Exhibit #E showing the lot dimensions.

Witness

Judith Hughes, Owner

All the signatures on the petition submitted as Exhibit C were gathered by applicant in person by visiting the neighbors. She explained to them what her plans were and they had no opposition. The petition was signed both abutters on either side and the two lot owners facing the front.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for a dimensional variance. The Planning Board feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. More specifically, the Planning Board feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land. The Planning Board feels that the applicant has sufficient room to the side of the property to locate an addition without having to request a variance. The Planning Board feels that the dimensional variance will alter the general character of the surrounding area and will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

In Favor:

Dennis Nally, 10 Lantern Brook Drive, Lincoln

He lives next door and is the only neighbor who would see the addition. Applicant has a fenced in yard for children to play and the house is very long. If addition were built to the side she would have to relocate her driveway. Feels this is best plan for her to expand existing house.

Motion made by Member Karempetsos to grant a 10 foot side yard setback stating:

- The hardship from which the applicant seeks is due to the unique**

characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.

- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Motion made by Member Rao to adjourn the meeting. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Respectfully submitted,

Ghislaine D. Therien

Ghislaine D. Therien

Recording Secretary